

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 10-27(CH)

December 24, 2009

TO: All Regional Directors, Officers-in-Charge
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Revisions to Unfair Labor Practice Casehandling Manual

A number of revisions have been made to the Unfair Labor Practice Casehandling Manual.¹ The significant modifications are as follows:

- (1) Guidance when an individual who does not read English files an unfair labor practice charge. (Section 10012.2).
- (2) Guidance regarding communications with the parties that electronic submission of documents is strongly encouraged. (Sections 10040.1, .4, .5 and .6; 10052.5; 10054).
- (3) Incorporates language to be included in all Confidential Witness Questionnaires. (Section 10052.4).
- (4) Guidance regarding the investigation of appropriateness of foreign language notice posting. (Section 10054.2(f)).
- (5) Clarification of guidance regarding contacts with represented parties and witnesses (Section 10058), including new subsection on skip counsel issues in Advice and Appeals cases. (Section 10058.8).
- (6) Incorporates language to be included in all Confidential Witness Affidavits (Section 10060.5 and .6) and guidance regarding instructions to affiants. (Section 10060.9).
- (7) New section on guidance regarding investigations involving potential undocumented witnesses. (Section 10061.1).
- (8) New section on guidance regarding investigations involving bilingual or non-English speaking witnesses. (Section 10061.2).
- (9) Guidance regarding procedures when there is attorney misconduct in Agency proceedings. (Section 10070).
- (10) Pattern Collyer, dismissal and 8(b)(7) case letters modified to reflect latest instructions regarding e-filing. (Sections 10118, 10122, 10236.4 and .5)
- (11) New section on guidance regarding alternative dispute resolution of cases pending before the Board. (Section 10154.8).

¹ These revisions reflect the efforts of RD Richard Ahearn, Region 19; RD Rik Lineback, Region 25; ARD Don Gardiner, Region 14; RA Garey Lindsay, Region 9; and AGC Nelson Levin, Operations-Management.

- (12) Guidance regarding ensuring that all court filings comply with federal rules protecting personal identification information. (Sections 10242, 10244, 10310.5 and 11798.1)
- (13) Guidance on obtaining hearing dates when special circumstances are present, such as where the alleged discriminatee is of “advanced age.” (Section 10256.1).
- (14) Guidance regarding filing Answers to Complaints either as paper documents or electronically. (Sections 10268.2 and 10280).
- (15) Guidance regarding introducing relevant evidence establishing the appropriateness of any requested remedies. (Section 10407.6).
- (16) Guidance regarding processing of representation petitions that are blocked by unfair labor practice charges that are otherwise appropriate for deferral. (Section 11731.3).
- (17) Clarification of guidance regarding instances when it would be appropriate to issue an investigative subpoena. (Section 11770).
- (18) Clarification of guidance regarding notification to attorneys or other representatives when serving a subpoena. (Section 11770.3).
- (19) Clarification of guidance as to when clearance is required from headquarters to issue an investigative subpoena. (Section 11770.4).
- (20) Guidance regarding filing an opposition to a petition to revoke an investigative subpoena. (Section 11770.7).
- (21) Clarification of guidance regarding claim by subpoenaed party of lack of Board jurisdiction in subpoena enforcement proceeding. (Section 11792.3).
- (22) New section on the recovery of attorney fees and costs in subpoena enforcement cases. (Section 11798.1).
- (23) Clarification of procedures upon a Regional Office receiving a Board subpoena (Section 11842.2) and a non-Board subpoena. (Section 11842.3).
- (24) Clarification of guidance regarding Agency petitions to revoke or motions to quash with respect to subpoena matters in Board and non-Board proceedings. (Section 11826).
- (25) Clarification of guidance regarding filing and service of paper (Section 11840) and electronically filed documents. (Sections 11841 and 11846.4).
- (26) Clarification of guidance regarding service of documents when a party or person is represented by an attorney (Section 11842.3) or by a non-attorney designated representative. (Section 11842.4).

The revised sections, along with an updated Detailed Table of Contents, Index and Table of Cases will be sent under separate cover.² These new pages should replace the corresponding pages in the ULP Manual. The new pages to the ULP Manual will also be made available on the Agency’s website (www.nlrb.gov) as well as on the Agency’s intranet. In addition, the revised Section 11700 – 11886 also replaces the corresponding section in the Representation Case Manual.

² The revised sections being sent are: 10010-10040; 10050-10070; 10118-10123; 10124-10142; 10146-10154; 10164-10170; 10200-10248; 10250-10452; 11700-11886; Detailed Table of Contents, Index and Table of Cases.

If you have any questions regarding this memorandum, please contact your AGC or Deputy or the undersigned.

R.A.S.

cc: NLRBU
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